

REMARKS

By the present response, no claims have been added, amended, or canceled. Accordingly, claims 1-5 and 21-32 remain in the present application. In the Office Action mailed January 29, 2008, the Examiner rejected claims 1-5 and 21-32.

Applicant respectfully responds to this Office Action.

Rejection under 35 U.S.C. § 102(b)

The Examiner rejected claims 1, 3, 4, 21, and 29 under 35 U.S.C. § 102(b) as being anticipated by Kenney (US Pat. No. 6,009,129). Applicant respectfully submits that Kenney does not disclose or otherwise show every limitation of any one of claims 1, 3, 4, 21, or 29.

Claim 1 recites a communication receiver, comprising a low pass filter that filters a base band signal to produce on-channel received samples by removing out-of-channel signals from the baseband signal; and a processor that processes said base band signal to produce out-of-channel received samples. Similarly, independent claims 21 and 29 have limitations that recite filtering the base band signal to produce on-channel received samples by removing out-of-channel signals from the baseband signal; and processing said base band signal to produce out-of-channel received samples.

In making the rejection, the Examiner relies on Kenney to disclose all of the limitations of claims 1, 21, and 29. However, upon closer review, Applicant submits that the cited portions of Kenney fail to disclose every limitation of claims 1, 21, and 29.

For example, the Examiner characterizes the IMD (“intermodulation distortion”) of Kenney as equivalent to Applicant’s out-of-channel signals (see p. 2 of the Detailed Action). However, this characterization is not accurate. Specifically, Kenney clearly indicates that IMD is a component of undesirable interference in the system (Col. 1, lines 46-51). Thus, by concluding that the IMD of Kenney is analogous to the out-of-channel signals of Applicant’s claims 1, 21, and 29, one would also have to erroneously conclude that the out-of-channel signals of Applicant’s claims are also undesirable components of interference, which they clearly are not.

Rather, Applicant's Specification clearly indicates that "out-of-channel signals" may refer to, for example, handoff candidate frequencies and GPS signals. (Applicant's Specification, paragraphs [0017] and [0025]). Thus, Applicant's out-of-channel signals are, in fact, signals that are an intentional communication of data, which is significantly different from an unwanted interference (e.g., the IMD of Kenney).

Accordingly, Applicant respectfully submits that Kenney does not show or otherwise disclose all of the limitation of independent claims 1, 21, and 29 and that these claims are allowable.

Claims 3 and 4 depend from claim 1, which Applicant submits is allowable. Accordingly, claims 3 and 4 are allowable at least for the reason that these claims depend from an allowable base claim.

Rejection under 35 U.S.C. § 103(a)

The Examiner rejected claims 2, 5, 22-28, and 30-32 under 35 U.S.C. § 103(a) as being unpatentable over Kenney (US Pat. No. 6,009,129) in view of Soliman (US Pat. No. 6,321,090). However, pursuant to 35 U.S.C. § 103(c), Soliman cannot be properly cited as a 103(a) reference to preclude patentability of the claims at issue since (1) Soliman can only qualify as a 102(e) reference, and (2) the invention of the pending claims and the invention of Soliman were, at the time the invention of the pending claims were made, owned by the same person or subject to an obligation of assignment to the same person. Here, the same person is Qualcomm Incorporated of San Diego, California (see Reel/Frame: 009738/0284). Thus, Soliman cannot properly be cited here as a 103(a) reference.

In light of the disqualification of Soliman, Applicant respectfully submits that claims 2, 5, 22-28, and 30-32 are allowable since, by the Examiner's own conclusion, Kenney alone cannot render the rejected claims obvious.

CONCLUSION

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of the present application are respectfully requested. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Applicant requests, under the provisions of 37 CFR 1.136(a), to extend the period for filing a reply in the above-identified application and to charge the fees for a large entity under 37 CFR 1.17(a). The Commissioner is hereby authorized to charge payment of any fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 17-0026.

Respectfully submitted,

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